

FILED

Feb 20 - 2024

John M. Domurad, Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORKLinda L. Hawley

Plaintiff(s)

vs.

Defendant(s)

OPWDD - Central New York DDSO

Civil Case No.:

5:24-cv-248 (MAD/TWD)

CIVIL COMPLAINT
PURSUANT TO
TITLE VII OF THE
CIVIL RIGHTS ACT,
AS AMENDEDPlaintiff(s) demand(s) a trial by: ☒ JURY ☐ COURT (Select only one).

JURISDICTION

1. Jurisdiction is conferred on this court pursuant to 42 U.S.C. § 2000e-5.

PARTIES

2. Plaintiff: Linda L. Hawley
Address: 228 Maple Drive
Oneida, NY 13421

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: OPWDD - Central NY DDSO
Official Position: _____
Address: 187 Northern Concourse
North Syracuse, NY 13212

b. Defendant: _____

Official Position: _____

Address: _____

4. This action is brought pursuant to:

☒ Title VII of the Civil Rights Act of 1964, as amended, codified at 42 U.S.C. § 2000e *et seq.*, and the Civil Rights Act of 1991, for employment discrimination based on race, color, religion, sex or national origin.

☐ Pregnancy Discrimination Act of 1978, codified at 42 U.S.C. § 2000e(k), as amended, Civil Rights Act of 1964, and the Civil Rights Act of 1991, for employment discrimination based on pregnancy.

5. Venue is invoked pursuant to 28 U.S.C. s 1391.

6. Defendant's conduct is discriminatory with respect to the following (check all that apply):

- (A) ☐ My race or color.
- (B) ☐ My religion.
- (C) ☒ My sex (or sexual harassment).
- (D) ☐ My national origin.
- (E) ☐ My pregnancy.
- (F) ☒ Other: Sexual Orientation

7. The conduct complained of in this action involves:

- (A) ☐ Failure to employ.
- (B) ☐ Termination of employment.
- (C) ☒ Failure to promote.
- (D) ☐ Unequal terms and conditions of employment.
- (E) ☐ Reduction in wages.
- (F) ☒ Retaliation.
- (G) ☐ Other acts as specified below:

8.

FACTS

Set forth the facts of your case which substantiate your claims. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary).

Please see attached pages 1, 2, 3, 4 and 5.

9.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

SECOND CAUSE OF ACTION

THIRD CAUSE OF ACTION

10. I filed charges with the New York State Division on Human Rights, the New York City Commission on Human Rights or Equal Employment Opportunity Commission regarding the alleged discriminatory acts on or about:

4/26/2022

(Provide Date)

11. The Equal Employment Opportunity Commission issued a Notice-of-Right-to-Sue letter (copy attached) which was received by me on or about:

11/28/2023

(Provide Date)

12. The plaintiff is an employee within the meaning of 42 U.S.C. § 2000e(f).
13. The defendant(s) is (are) an employer, employment agency, or labor organization within the meaning of 42 U.S.C. § 2000e(b), (c), or (d).
14. The defendant(s) is (are) engaged in commerce within the meaning of 42 U.S.C. § 2000e(g).

15. **PRAYER FOR RELIEF**

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:
That my employer cease and desist future unlawful sexual orientation discrimination
practices against me.

To recover backpay, compensatory damages, and punitive damages.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 2/20/2024



Signature of Plaintiff(s)
(all Plaintiffs must sign)

02/2010

Facts to attach to the Complaint Form

- 1) I have worked for my current employer, Office for People with Developmental Disabilities (OPWDD) – Central New York Developmental Disabilities Services Office (CNY DDSO), since December 5, 1996. Within the next few paragraphs, I will demonstrate how my promotions stopped after disclosing my same-sex relationship in January of 2008.
- 2) Since that time, I have been denied dozens of promotions in situations where I was the better candidate. My most recent promotion since January of 2008 came on the heels of my EEOC complaint on June 16, 2022. That timeline is suspect.
- 3) I am a good employee. I was nominated for Employee of the Year twice in my 27-year span. Both nominations occurred as I supervised at least 21 employees, and up to 80 individuals, in both the East and West as a Day Habilitation Director. I have received multiple great Bureau of Program Certification (BPC) reviews. I am the only Day Habilitation Director to achieve numerous perfect reviews, zero deficiencies, in both Eastern and Western Divisions.
- 4) I have held many voluntary positions in addition to my normal job duties while at this agency. I was a member of the Employee Assistance Program (EAP). I was a Strategies for Crisis Intervention and Prevention – Restrictive (SCIP-R) instructor for several years. I assisted the Quality Improvement Director (Mr. Palladino) in creating the current requirements for OPWDD's Fire Safety Assessments (e.g., Egress-Scores, formulas, etc.). Marcy Day Habilitation was the experimental site used as a basis for the formula to establish time frames for egress. I am currently a Mentor to staff through 2023-2024 OPWDD's Mentoring Program. I have founded Self-Advocacy Groups, formed a Bell

Choir with the individuals I serve, and was the Chair to an annual Ball held in Herkimer County.

- 5) I put myself through college using the tuition assistance programs that my employer provided. I currently have a master's degree in Sociology that speaks to my career path of Human Services. I had received numerous promotions within the first eleven years and one month of my over 27-year career path with my employer. I started as a Developmental Support Aide Trainee (DSAT), Grade 7, to a Developmental Support Aide, (DSA), Grade 9, to a Habilitation Specialist I, (HSI), Grade 14, to a Habilitation Specialist II, (HSII), Grade 17.
- 6) In January of 2008, right after my last promotion to a HSII, I spoke openly about being gay and in a monogamous relationship with a woman who would be my future wife and partner of nearly 17 years now. This was to be my last promotion within this agency until weeks after my official complaint with the Equal Employment Opportunity Commission (EEOC) was filed in 2022.
- 7) My employer will state that this is incorrect and that I received a promotion in February of 2018. On February 1, 2018, I was appointed a position as a Rehabilitation Counselor II (RCII), Grade 19, along with all the other Program Directors within our agency as our Leadership felt these positions did not match the description of the residential HSII's, Grade 17. We were working at a higher grade than what we were being paid, and I was one of thirteen employees that received a promotion in this way.
- 8) On October 18, 2019, the Human Resources Department let me know that I was not awarded the first Treatment Team Leader, (TTL), Grade 25, position over Day Habilitations. Another person was awarded. She had less years on the job, less salary

grade, no previous experience working with Day Habilitations, and no supervisory experience. I hold a master's degree. I have more experience. I am one grade above her (I was a Grade 19, and she was a Grade 18 at that time).

- 9) On October 31, 2019, I filed a grievance through my union, Public Employee Federation, (PEF), to the Government Office of Employee Relations, (GOER).
- 10) On July 6, 2020, my grievance proceeded to Level 3 in the grievance process before becoming "owned by the union" which meant it did not go anywhere further.
- 11) As time passed, I was repeatedly passed over for promotions for both TTL's (Grade 25) and Developmental Disabilities Program Specialist I, (DDPSI), Grade 21, the next planned steps I would take in my career path.
- 12) On December 16, 2021, I submitted an EEOC inquiry online, Case #525-2022-00609.

This process took longer than expected as the agency informed me that it was backlogged and understaffed due to Covid. As a result of this, my first Charge of Discrimination is filed on April 26, 2022.
- 13) On May 11, 2022, I sent an email to my previous supervisor, Enid Sage, thanking her for taking the time to speak with me over the phone and tell me about the position at length prior to my interview with her that same day. On May 18, 2022, Human Resources called me and told me that I had been given a promotion to the DDPSI position. On June 13, 2022, OPWDD signed its Employer Position Statement and sent it to the EEOC.
- 14) On June 16, 2022, I start my first promoted position since January 2008 as a DDPSI, Grade 21, at OPWDD – Central NY DDSO.
- 15) On December 22, 2022, I file my first Rebuttal to my Employer's Position Statement.

- 16) On January 11, 2023, I endure my first form of retaliation as I am moved to the worst cubicle location in the entire building. I'm two feet away from an outside door with a high traffic area. An employee with six years seniority left the location and they gave me less than 24 hours' notice to relocate.
- 17) On January 23, 2023, the EEOC gives me my first Right to Sue Letter.
- 18) The EEOC and my Employer both failed to realize my complaint was a Sexual Orientation Discrimination complaint, not a Sex Discrimination complaint (e.g., Male versus Female). I reach out to the EEOC lawyer with no response. I reach out to the EEOC department at Washington DC who then presses this issue further with their Buffalo office.
- 19) On March 24, 2023, I am awarded a Notice of Intent to Reconsider by the EEOC.
- 20) On March 31, 2023, I retain counsel from Moshe Law Group. My lawyer, Oscar Alvarado, alerted the EEOC that I was his client.
- 21) On May 1, 2023, OPWDD – CNY DDSO gave its second Position Statement.
- 22) On August 1, 2023, Moshe Law Group called and informed me that Oscar Alvarado no longer worked for their law group. They informed me that he made an error in taking this case because this firm doesn't handle cases that require a court of claims.
- 23) On August 3, 2023, the EEOC notified my attorney I must provide my rebuttal by 8/17/23. Moshe Law Group called the EEOC and followed up with a letter that stated their law group no longer represented me. As a result, I asked for an extension of the timeline. The EEOC extended the timeline to August 31, 2023.
- 24) On August 30, 2023, I submitted my second Rebuttal.

25) On September 25, 2023, I interviewed for another TTL position over the Day Habilitations.

26) On October 5, 2023, a different employee was awarded this position. Again, I am more qualified on multiple levels. I sent the official award letter showing this to the EEOC and they listed it as evidence.

27) On November 28, 2023, the EEOC gave me my second Right to Sue Letter.